

REMARKS

Claims 1, 3-23 are provisionally rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1, 3-21 of copending Application No. 10/709,337 in view of Joch et al. (US 7,227,901).

5 Applicant does not agree with the Examiner's double patenting rejection, however, to speed prosecution of this application to become a patent, the applicant has included a terminal disclaimer for co-pending application 10/709,337 in compliance with 37 CFR 1.321(c) to overcome the above rejection based on non-statutory obviousness type double patenting.

10 Applicant further notes that filing the terminal disclaimer in no way indicates that the applicant agrees with the double patenting rejection made by the Examiner. In particular, MPEP 804.02 states:

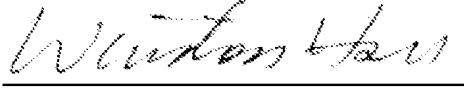
15 The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. Quad Envi-ronmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

20 **Conclusion:**

25 Thus, all pending claims are submitted to be in condition for allowance with respect to the cited art for at least the reasons presented above. The Examiner is encouraged to telephone the undersigned if there are informalities that can be resolved in a phone conversation, or if the Examiner has any ideas or suggestions for further advancing the prosecution of this case.

Appl. No. 10/709,340
Amdt. dated March 25, 2008
Reply to Office action of January 31, 2008

Sincerely yours,



Date: 03/25/2008

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10 Note: Please leave a message in my voice mail if you need to talk to me. (The time in D.C.
is 12 hours behind the Taiwan time, i.e. 9 AM in D.C. = 9 PM in Taiwan.)